

**UNITED STATES DISTRICT COURT
DISTRICT OF MASSACHUSETTS**

BRUNO HOFFMAN, Individually and on Behalf of :
All Others Similarly Situated, :
Plaintiff, :
vs. :
No.: 04-10027-JLT
PHILIP LAUGHLIN, MICHAEL SABOLINSKI, :
ALBERT ERANI, DONNA ABELLI LOPOLITO, :
JOHN J. ARCARI, HERBERT M. STEIN, :
ALAN ADES, BERNARD A. MARDEN, :
ALAN W. TUCK, NOVARTIS PHARMA AG and :
PRICE WATERHOUSECOOPERS LLP, :
Defendants. :
:

**MEMORANDUM IN SUPPORT OF PLAINTIFFS' MOTION FOR ENTRY OF
SCHEDULING ORDER**

MOULTON & GANS, P.C. Nancy Freeman Gans 33 Broad Street Suite 1100 Boston, MA 02109-4216 (617) 369-7979	MILBERG WEISS BERSHAD & SCHULMAN LLP Steven G. Schulman Elaine S. Kusel Peter Sloane One Pennsylvania Plaza New York, New York 10019-0165 (212) 594-5300

Court-appointed Lead Plaintiffs Bruno Hoffman, John H. Bowie, Richard Madigan, and Richard Conen (collectively, "Lead Plaintiffs" or the "Hoffman Group"), by their counsel, respectfully submit this Memorandum in Support of their Motion For Entry of Scheduling Order and attached [Proposed] Scheduling Order. As grounds therefore, Lead Plaintiffs state that on July 21, 2004, this Court entered an Electronic Order Approving Stipulation and Order Consolidating Actions and Appointing Lead Plaintiff and Approving Lead Plaintiffs Selection of Lead Counsel and Liaison Counsel, and Consolidating Cases. A scheduling order is now necessary to set deadlines for Lead Plaintiffs to file a consolidated amended complaint against any and all defendants; for defendants to move, answer or otherwise respond to the consolidated amended complaint; and for a briefing schedule with respect to any defendants' motion to dismiss the consolidated amended complaint.

Two complaints pursuant to the provisions of the Securities Exchange Act of 1934 (the "Exchange Act"), as amended by the Private Securities Litigation Reform Act (the "PSLRA") were filed against the Defendants in the above entitled action. The first complaint was filed on January 7, 2004 by Bruno Hoffman Individually and on Behalf of All Others Similarly Situated (C.A. No.04-10027 JLT) and the second on March 15, 2004 by Christopher Gerard Ahee (C.A. No. 04-10517 JLT). On March 22, 2004, the Hoffman Group, pursuant to the PSLRA, timely filed a motion (the "Lead Plaintiff and Consolidation Motion") for Consolidation, Appointment as Lead Plaintiff and Approval of Lead Plaintiff's Selection of Lead Counsel [Milberg Weiss Bershad & Schulman LLP] and Liaison Counsel [Moulton and Gans, P.C].

On July 20 and 21, 2004, the Court granted the Lead Plaintiff and Consolidation Motions by Electronic Order. See July 20, 2004 Docket Entry.

On March 29, 2004 — after Plaintiffs had filed their Lead Plaintiff and Consolidation Motion but *before* the Court had ruled on that Motion — defendant PricewaterhouseCoopers, LLP (“PwC”) filed a motion to dismiss the Hoffman complaint (the “PwC Motion to Dismiss”). PwC’s Motion to Dismiss was filed in the Ahee action on April 5, 2004. On April 12, 2004, Plaintiffs timely filed motions to strike both PwC Motions to Dismiss as premature. Plaintiffs also filed preliminary oppositions to the motions to dismiss, requesting an extension for leave to file a full reply if the Court denies Plaintiffs’ motions to strike. Plaintiffs assert that PwC’s filing of a motion dismiss before the appointment of lead plaintiff and lead counsel and before the Court-appointed lead plaintiff had the authority to file a consolidated amended complaint is inappropriate under well-settled precedent and the procedures established by the PSLRA for the orderly and efficient administration of securities class actions. Further, PwC previously sought and entered into a stipulation delaying its time to answer the complaint until after a Consolidated Amended Complaint had been filed. See Plaintiffs’ Preliminary Opposition To Defendant PriceWaterhouseCoopers LLP’s Motion To Dismiss, And Memorandum In Support Of Plaintiffs’ Motion To Strike PriceWaterhouseCoopers’ Motion To Dismiss Or, In The Alternative, For An Extension Of Plaintiffs’ Time To Respond, dated April 12, 2004 at 7-8. The Court has not yet set a hearing on, nor has it ruled on, the PwC Motions to Dismiss or Plaintiffs’ Motions to Strike.

Since the Court has consolidated the actions and appointed Lead Plaintiffs and their counsel, Lead Plaintiffs now have authority to prosecute this action on behalf of the class. Acting on that authority, Lead Plaintiffs intend to file a consolidated amended complaint against all defendants and have advised defendants of that intention.

WHEREFORE, Lead Plaintiffs respectfully request that the Court enter a scheduling order, substantially in the form attached to Lead Plaintiffs' Motion as Exhibit A, directing Lead Plaintiffs to file any consolidated amended complaint against any and all defendants within 60 days of the filing of the Court's Order, directing defendants to move, answer or otherwise respond to the complaint within 60 days of the filing of the consolidated amended complaint, and setting a briefing schedule on any motion to dismiss the consolidated amended complaint.

Dated: August 19, 2004

Respectfully Submitted,

MOULTON & GANS, P.C.

By: /s/ Nancy Freeman Gans
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CERTIFICATE OF SERVICE

I, Nancy Freeman Gans, hereby certify that a true copy of the above document was served upon the attorney of record for each party by hand and/or first class mail, postage prepaid, on August 19, 2004.

/s/ Nancy Freeman Gans
Nancy Freeman Gans